REMARKS

Applicants hereby amend claims 30, 31, and 40. After entry of the amendments, claims 30-31 and 40-57 remain pending in the application. Applicants submit that the pending claims are allowable over the rejections set forth in the present Office Action. Accordingly, reconsideration and allowance of all pending claims is earnestly requested.

35 U.S.C. §112 Rejections

Claim 40-57 stand rejected under 35 U.S.C. §112, first paragraph. In particular, the Examiner states that "extracts thereof" in reference to camphor, eucalyptus oil, menthol, and azulen is not supported and that the application only supports extracts of natural oils. Applicants disagree. Paragraph 29 recites "[a]dditionally, many aromatic compounds such as those composed primarily of natural oils or extracts therefrom may be decongestants as well such as camphor, eucalyptus oil, menthol, azulen, extracts thereof, and mixtures thereof." This means that natural oils include camphor, eucalyptus oil, menthol, azulen and decongestants may include such oils, extracts thereof, and mixtures thereof. Reconsideration and withdrawal of this rejection is earnestly requested.

Claims 47-48 stand rejected because Applicants' specification purportedly does not identify hydroxyethyl cellulose as a thickener. Applicants disagree. As set forth in paragraph 33, suitable thickeners may include any acceptable thickener, such as food-grade or pharmaceutical-grade thickeners. Hydroxyethyl cellulose is a well-known pharmaceutical-grade thickener and is specified in the exemplary compositions. Applicants therefore request reconsideration and withdrawal of this rejection to claims 47 and 48.

Claim 30-31 and 40-57 stand rejected under 35 U.S.C. §112, second paragraph. Claims 30, 31, and 40 have been amended to obviate this rejection. Accordingly, reconsideration and withdrawal of the rejection is requested.

35 U.S.C. §103 Rejections

Claims 30 and 31 stand rejected under 35 U.S.C. §103 as being unpatentable over Davidson et al. (U.S. Patent No. 6,365,624) in view of Haslwanter et al. (U.S. Patent No. 5,854,269) and Hensley et al. (U.S. Patent No. 6,673,835). Applicants traverse this rejection.

Hensley et al. falls under prior art only under 35 U.S.C. §102(e), since it is assigned to the same assignee hereof. Therefore, Applicants submit that it is improper prior art under 35 U.S.C. §103. It is further noted that the Examiner previously indicated that these claims were allowable. Applicants therefore respectfully request reconsideration and withdrawal of this rejection to claims 30 and 31.

Double Patenting

Claims 30-31, 40-48, and 52-57 stand rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 2-10 and 33 of United States Patent No. 7,115,275. Applicants herewith submit a terminal disclaimer to obviate this rejection.

Conclusion

In view of these amendments, Applicants respectfully submit that all pending claims are now in condition for allowance and therefore respectfully request allowance of all claims. Should the Examiner find one or more of the pending claims unpatentable, the undersigned requests a call from the Examiner.

Respectfully submitted,

Date: 7/30/08

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